



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,508	01/09/2002	Yuji Ito	576P044	9104
7590 Kevin S Lemack Niels & Lemack Suite 8 176 East Main Street Westboro, MA 01581			EXAMINER SELLERS, ROBERT E	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,508

Applicant(s)

ITO ET AL.

Examiner

Robert Sellers

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-17 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1/2/02 6) ☐ Other:

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1 and 4-10, drawn to a leakage water cut-off agent comprising a water-absorptive polymer dispersed in a medium containing a polyalkylene glycol, a its method of manufacture (claim 10).

Group II, claims 2 and 3, drawn to Group I further comprising a gellant.

Group III, claim 11 and 12, drawn to a leakage water cut-off material infiltrated into a spongy substance.

Group IV, claim 13, drawn to a leakage water cut-off material coated or infiltrated into an article.

Group V, claim 14, drawn to a method for preventing water leakage by placing a water leakage preventive material in a water leakage pathway of a construction.

Group VI, claims 16 and 17, drawn to a method for preventing water leakage by injecting a leakage water cut-off agent into holes set in a concrete construction.

The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The special technical feature is the water-absorptive polymer dispersed in a medium containing a polyalkylene glycol. Japanese Patent No. 2-245062 sets forth an aqueous dispersion of a water-absorbing resin with a polyalkylene glycol (formula I wherein R¹ is hydrogen. The special technical feature does not make a contribution over the prior art, thereby validating a holding of lack of unity between the inventions.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

(1) Contingent upon the election of any of Groups I-VI, the water-absorptive polymers such as the sodium polyacrylate shown in Example A1 on page 30 of the specification (component 3).

(2) Contingent upon the election of Group II, the gallants such as the bentonite utilized in Example A3 on page 38, component (3). Contingent upon the election of Group III, IV, V or VI, the presence or absence of the gallant, wherein if its presence is elected, a particular species thereof such as bentonite is identified.

(3) Contingent upon the election of Group III, the spongy substances of claim 12.

(4) Contingent upon the election of Group IV, the articles of claim 13.

Applicant is required, in reply to this is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Claims 1-17 are generic

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the reasons espoused with respect to the holding of lack of unity hereinabove.

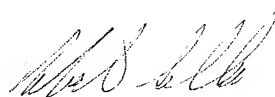
The reply to this requirement to be complete must include an election of a single invention from Groups I-VI on page 2 hereinabove, and elections of single species from among items 1) to 4) on page 3 (depending on the elected group) to be examined even though the requirement be traversed (37 CFR 1.143).

Upon the cancellation of claims to non-elected inventions, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art is deemed to be pertinent to the claims and will be evaluated for their applicability based on the particular invention and species to be elected.

(703) 308-2399 (Fax no. (703) 872-9306)
Monday to Friday from 9:30 to 6:00 EST



Robert Sellers
Primary Examiner
Art Unit 1712